IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 972 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI
and
Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ARUN AUTO SPRING MANUFACTURING COMPANY
Versus
UNION OF INDIA

Appearance:
1. Special Civil Application No. 972 of 2003
MR DHAVAL K. SHAH for MR PARESH M DAVE for Petitioner
MR DN PATEL for Respondents

CORAM : MR.JUSTICE R.K.ABICHANDANI
and
MR.JUSTICE A.L.DAVE

Date of decision: 29/03/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE A.L.DAVE)

#. Rule. Mr. D.N. Patel, waives service of notice of rule for the respondents.

#. The Order-in-Appeal came to be passed by the Commissioner(Appeals), Customs and Central Excise, Rajkot, on December 20, 2002 against the petitioner. The petitioner on being aggrieved, has approached the Customs, Excise and Gold (Control) Appellate Tribunal ("CEGAT" for short), with an appeal and a stay application, seeking stay of operation of the order of the Commissioner (Appeals) and it is demonstrated before us that the said appeal has been received by CEGAT, Mumbai, on January 8, 2003.

#. It is the case of the petitioner that the respondent authorities have now resorted to coercive recovery of dues in implementation or Order-in-Appeal, despite the fact that the appeal is pending before the CEGAT, so also the stay application. It is submitted by the learned advocate for the respondents that the respondent authorities may be directed not to effect the coercive recovery pending the stay application in appeal before the CEGAT. Attention of this Court is drawn to an order passed in Special Civil Application No. 10591 of 2001 with Special Civil Application No. 10622 of 2001, passed on November 7, 2001 and to several other similar orders.

#. We have heard the learned advocates for the parties and have considered the material on record.

#. Mandamus sought on CEGAT, Mumbai, to hear the stay application cannot be granted in the absence of any information regarding the workload. However, it is hoped that the appellate authority shall take up the matters as early as possible. However, circumstances of the case require that till the order in stay application filed in appeal before the CEGAT, preferred against the order of the Commissioner (Appeals) is passed, the respondent authorities be directed not to effect the coercive recovery. It is stated at the Bar by the learned advocate for the petitioner that no order is passed till date by the CEGAT below the stay application filed in the appeal before the CEGAT. Under the circumstances, the learned counsel appearing for the respondents is directed to instruct the concerned respondent authorities to suspend the recovery proceedings, if any, until the appellate authority passes an order in the stay application in the appeal. The petition, therefore,

stands disposed of accordingly. Rule is made absolute accordingly with no order as to costs.

[R.K. ABICHANDANI, J.]

[A.L. DAVE, J.]
pirzada/-